

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5120 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

MEENABEN MUKESHKUMAR MODI W/O DETENUE MUKESHBHAI

Versus

COMMISSIONER OF POLICE

Appearance:

MR NM KAPADIA for Petitioner
MR.NEEGAM SHUKLA,AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application filed by the wife of the detenu is directed against the order dated 14.6.1996 passed by the Police Commissioner, Surat City whereby the detenu has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 15.6.1996 and since then the detenu is under detention lodged at District Jail, Rajkot.

This Special Civil Application was filed on 15.7.1996 and 16.7.1996 Rule returnable for 26.8.1996 was issued. but so far neither any reply has been filed nor any affidavit of the Detaining Authority has been filed. The grounds of detention enclosed with the detention order show that three criminal cases under Bombay Prohibition Act were registered against the detenu. Besides this the Detaining Authority has taken into consideration the statements made by certain witnesses against the petitioner's antisocial activities with regard to the incident dated 10.1.1996 and 26.2.1996. The detenu is found to be engaged in antisocial activities and has been detained as bootlegger. The detention order has been challenged on more than one grounds but the learned counsel for the petitioner has stress that no case of breach of public order is made out.

In viesw of the reasons given in Special Civil Application No.3879 of 1996 dated 4.10.1996, it is clear that the allegation and material relied upon by the Detaining Authority against the detenu do not constitute a case of breach of public order. It is at the most a case of law and order and therefore the detention order deserves to be quashed and set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 14.6.1996 passed by the Police Commissioner, Surat City is hereby quashed and set aside and the detention order against the detenu is declared to be illegal. The respondents are directed to release the detenu Mukeshbhai Prabhudas Champaklal Modi and set him at liberty forthwith if not required in any other case. Rule is made absolute. Learned counsel for the detenu submitted that during the pendency of the petition the detenu has been transferred to Central Prison, Sabarmati. Writ may be issued accordingly.
